



REZONING APPLICATION ANALYSIS

ZONING CASE #: Z2012-09

LEGISTAR #: 20120982

LANDOWNERS: Wallace J. Neal
P. O. Box 1262
Marietta, GA 30061

APPLICANT/AGENT: Garvis L. Sams, Jr.
Sams, Larkin & Huff, LLP
376 Powder Springs Street, Suite 100
Marietta, GA 30064

PROPERTY ADDRESS: 1690 Cobb Parkway South

PARCEL DESCRIPTION: Land Lot 07110, District 17, Parcel 0300

AREA: 1.62 acs. **COUNCIL WARD:** 1A

EXISTING ZONING: LI (Light Industrial)

REQUEST: CRC (Community Retail Commercial)

FUTURE LAND USE MAP

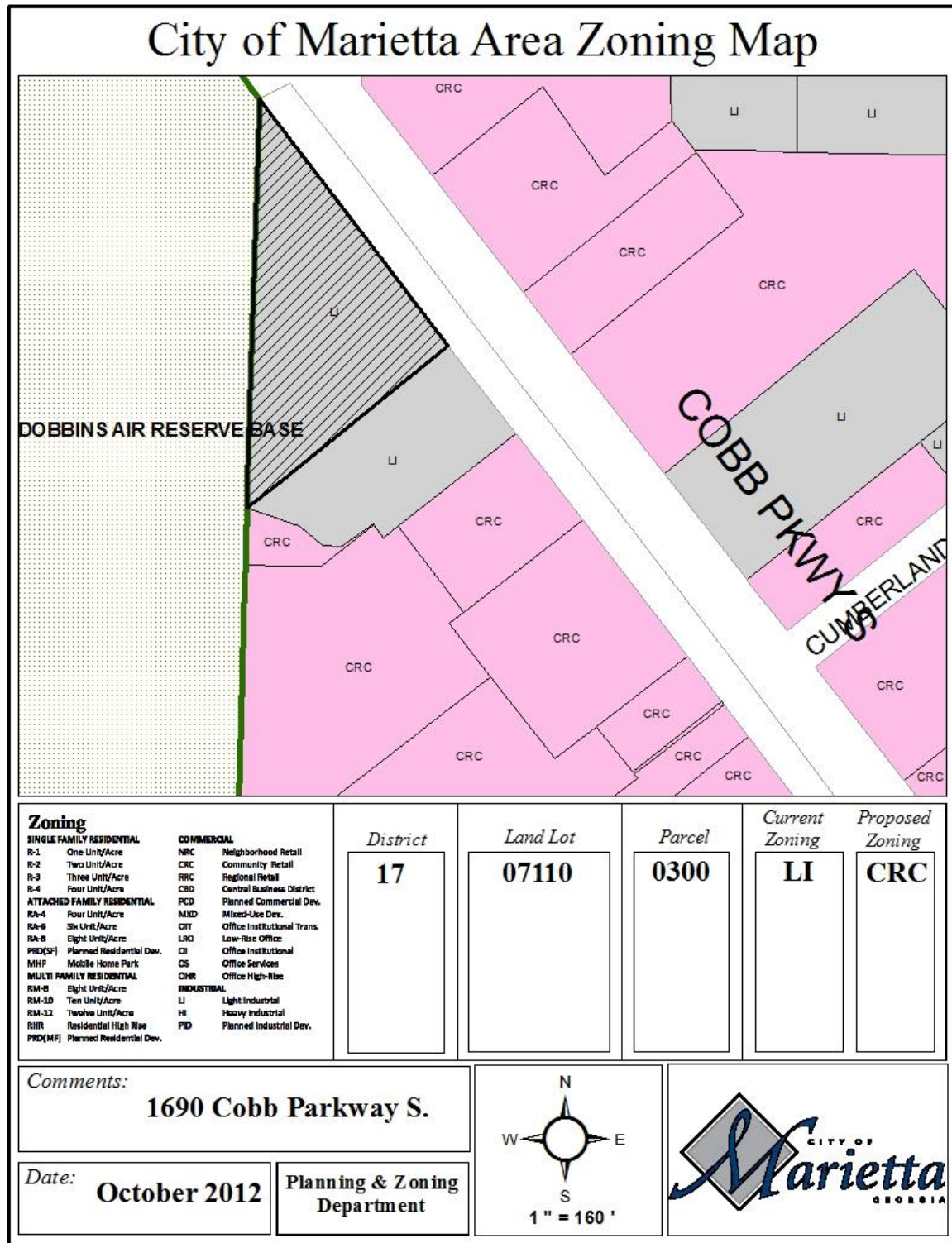
RECOMMENDATION: CAC (Community Activity Center)

REASON FOR REQUEST: The applicant is requesting the rezoning of this property from LI to CRC in order to assign the appropriate zoning classification for the subject property to allow retail and service uses for which the property has always been used.

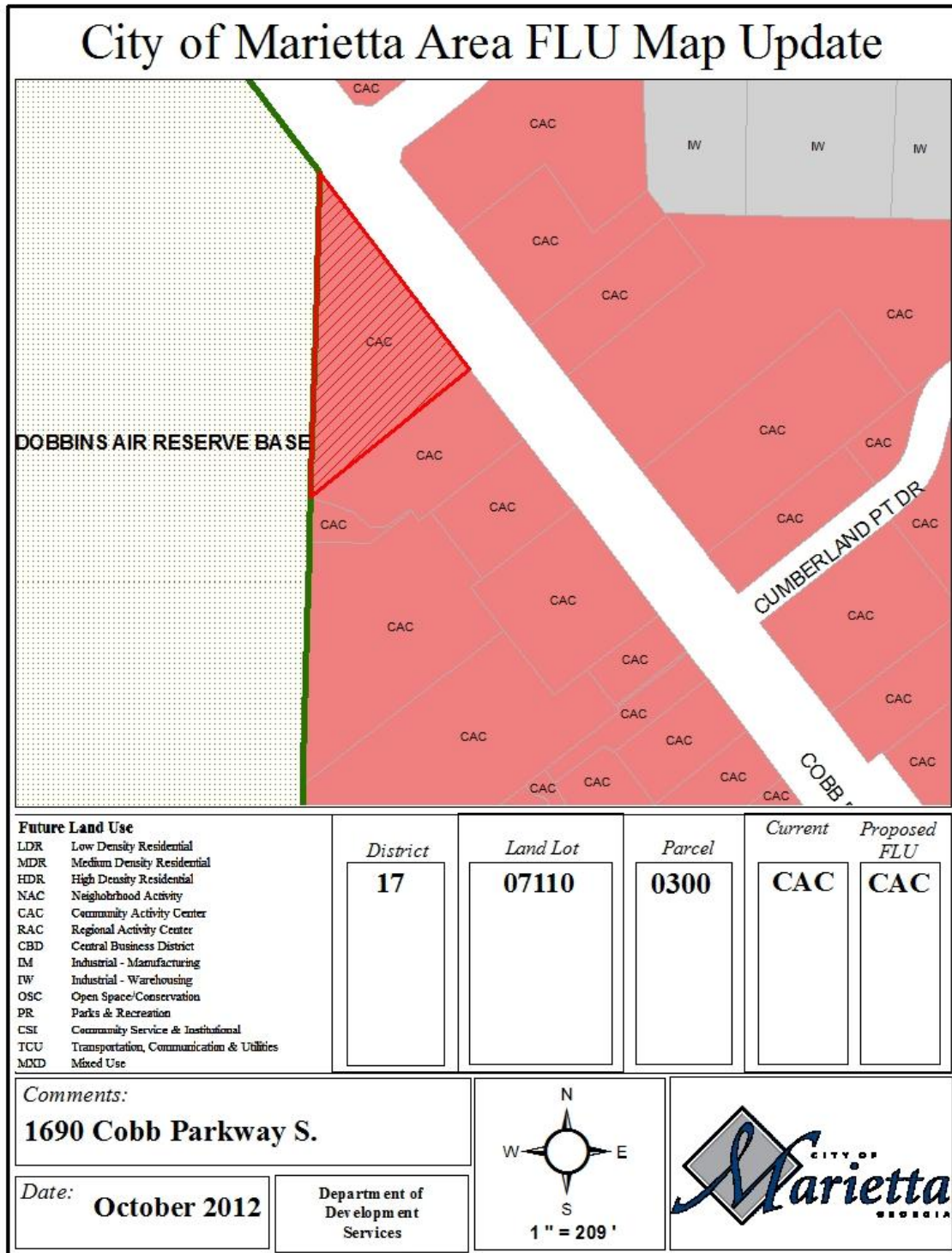
PLANNING COMMISSION HEARING: Wednesday, November 7, 2012 – 6:00 p.m.

CITY COUNCIL HEARING: Wednesday, November 14, 2012 – 7:00 p.m.

MAP



FLU MAP



PICTURES OF PROPERTY



1690 Cobb Parkway S – Northern and southern buildings.



1690 Cobb Parkway S. – Northern Building



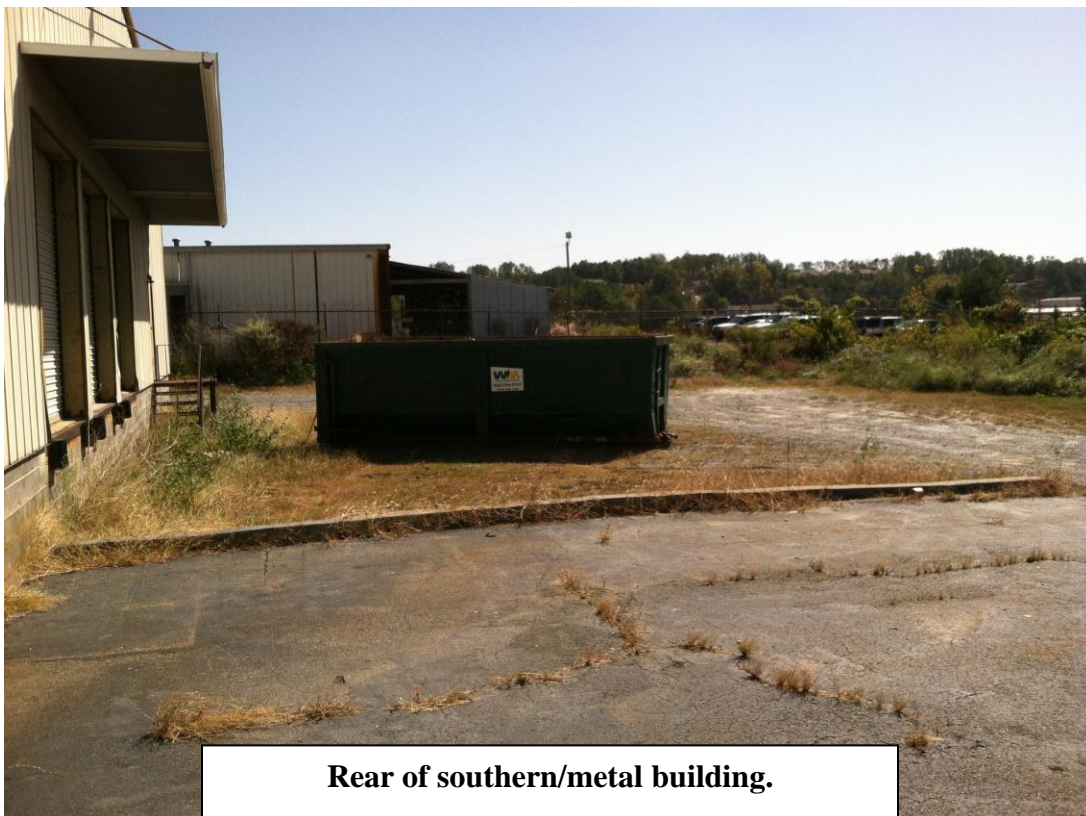
1690 Cobb Parkway S. – Southern Building.

No roofing and no windows. Completion of this building and any other construction on subject property requires filing with the FAA for decision because this property is within the Dobbins Air Reserve Base Clear Zone.





Showing rear of northern and southern buildings.



Rear of southern/metal building.

STAFF ANALYSIS

Location Compatibility

Garvis Sams of Sams, Larkin & Huff, is the petitioner for the property owner Wallace Neal, and is requesting to rezone 1.62 acres located at 1690 Cobb Parkway South from LI (Light Industrial) to CRC (Community Retail Commercial) in order to have compatible zoning that complies with retail service uses. The subject property is located along Cobb Parkway South which is a federal highway corridor known as US 41. To the north and west of the subject property is Dobbins Air Reserve Base (ARB), and to the south are commercially zoned properties that are zoned LI (Light Industrial) and CRC (Community Retail Commercial). The majority of the properties along the western side of Cobb Parkway are zoned CRC (Community Retail Commercial), except for the property that directly abuts the southern property line, which is zoned LI (Light Industrial). The subject property is entirely located within Dobbins ARB's Accident Potential Clear Zone, where a recently completed study for the Dobbins ARB restricts any new development or expansions; however, such restrictions do not supersede local land use regulations.

The petitioner is requesting the rezoning of the subject property so that the business uses are compatible with the proposed zoning, CRC (Community Retail Commercial). Currently, the property is zoned LI (Light Industrial), and historically, the majority of the businesses that lease spaces are retail businesses instead of light industrial businesses. The proposed rezoning of the subject property to CRC would be more in line with the actual use of the property, retail services.

Use Potential and Impacts

As currently zoned, a tenant could not be approved for a business license to conduct retail and personal service uses. Should the property remain a light industrial use under the current LI designation, it would create a hardship on the property owner, and could present a negative impact on the surrounding business community. The current LI designation limits the uses to higher intensive uses, such as business distribution/service facilities and manufacturing/assembly processes. However, the property is currently used, and is more appropriate, for retail and personal service uses. The requested retail zoning is a less intense use for the subject property than the light industrial designation, and will have fewer impacts on infrastructure and other public resources. It should be noted that one of the buildings on the subject property is currently unused and does not have a roof; and another building is a large warehouse.

The city's Comprehensive Plan designates the subject and adjacent properties as having FLU (Future Land Use) of CAC (Community Activity Center). The requested CRC zoning category is compatible with the FLU designation, and the proposed zoning category is reasonable.

STAFF ANALYSIS CONTINUED

Environmental Impacts

There is no indication that any streams, floodplains, wetlands, or endangered species exist on the subject property. However, approximately 300 ft. south of the subject property is flood plain of the Rottenwood Creek.

Also, the property currently contains very few trees and is not in compliance with Section 712.08, Tree Protection and Landscaping. In order for the property to remain as-is (until the site is redeveloped according to Section 706.03), the following variances would be necessary.

- Variance to eliminate the required street trees and to parking lot trees.
- Variance to reduce the required 10 ft. landscape strip along Cobb Parkway.
- Variance to allow the current trees and landscaping conditions satisfy the requirements of Section 712.08.

Economic Functionality

The subject property has two existing buildings, and the building located further to the north of the subject property has seven (7) tenant spaces and five (5) are currently occupied with retail and service tenants. The building located along the southern portion of the subject property is divided into a retail section and a warehouse section, and the retail section has been gutted and is without a roof. In May 2012, the property owner applied for two building permits to change the roof from flat to sloping, and to demolish the sheet rock of the interior of this building. At this time, the work to replace the roof has not been completed, as shown in the pictures above. According to the Building Division, the building permits are only good for six months and the permit for the roof work is due to expire on November 28, 2012. The economic functionality of the southern building is unknown due to its current conditions.

This rezoning request was initiated when a retail tenant attempted to occupy one of the seven tenant spaces in the retail building, but that particular space had remained vacant for more than 6 months. The business license application was denied because the current LI zoning designation does not allow retail business use.

As currently zoned, the subject property is limited to light industrial uses, but is more suitable for retail and service uses due to the small site, parking layout and limited area for maneuvering large delivery and distribution trucks. Most industrial sites in the surrounding area have larger lots and larger radii for large truck turn movements.

STAFF ANALYSIS CONTINUED

Infrastructure

The proposed rezoning of the subject property is not expected to have any impact on the existing infrastructure in the area nor is expected to have any impact on the water and sewer system or electricity infrastructure in the area.

History of Property

According to City records, the subject property was annexed into the city in separate parcels and at a later date was subdivided to develop the subject property in its current configuration. In June, 1971 (Council Bill #7071), a request by the property owner W.C. Wallace was approved to rezone a portion (approximately 2.2 acres) of the subject property to LI (Light Industrial). The records state that the LI designation was recommended by the Planning Commission due to the property being in close proximity to Dobbins ARB and Airport Industrial Park. The Planning Commission concluded that the LI designation would be compatible with those industrial uses and the designation would help the area develop as a unified district.

In June 1984 (Council Bill #189684), the rest of the property was approved for annexation and rezoning into the city with an LI designation. This section of the subject property was the northern most triangle-shaped piece of 0.371 acres. According to City records, the Planning Commission recommended annexing and zoning the property as it was zoned in the county as LI.

Other Issues

The subject property is located entirely within the Dobbins Air Reserve Base (ARB) Accident Potential Clear Zone (CZ), and as such, certain actions require the property owner to coordinate with Dobbins ARB regarding any proposed changes. Last year Dobbins ARB completed their Air Installation Compatible Use Zone study that defines and details the purpose of the CZ. The Clear Zone was established based on crash patterns, and starts at the end of the runway and extends outward 3,000 ft. The study determined that the Clear Zone has the highest accident potential, though it has decreased since the last study in 1973. The report does state that the risk to people on the ground of being killed or injured by aircraft accidents is small; however, an aircraft accident is a high consequence event and when a crash does occur, the result is often catastrophic. Because of this, Dobbins ARB approaches this safety issue from a land use planning perspective.

On October 17, 2012, Staff contacted Stacy Free with Dobbins ARB, and explained the proposed rezoning from LI to CRC, with no expansion to the building footprint. At that time, there was no discussion about repairs that would have to be made to the roof, including possible changes to the roof height. Once Ms. Free was provided with this new information, she concluded that while Dobbins ARB would not have issues with the rezoning of the property from LI to CRC, the applicant would have to file with the Federal Aviation Administration (FAA) as it relates to any physical alterations to the subject property. Therefore, since this property is within the CZ and the roof of the southern building will change from flat to sloping, this would require the applicant to file with the FAA for their decision.

In regards to City of Marietta zoning regulations under the CRC zoning designation, the following variances will be necessary to accommodate the property as currently developed. Such variances should only :

- Variance to reduce front setback from 40 ft. to 7 ft. to accommodate the building in the southeastern corner of the property.
- Variance to reduce the rear yard setback from 35 ft. to 25 ft.
- Variance to allow the maximum impervious surface area to exceed 80%.
- Variance to reduce the required number of parking spaces from 79 to 31.
- Variance to allow 20 parking spaces on a gravel surface.

Staff suggests that any variances that are approved should be for the current developed property only, and should be discontinued upon the redevelopment of the site, according to Section 706.03, Continuance of a nonconforming building or structure.

ANALYSIS & CONCLUSION

Garvis Sams, the petitioner for the property owner, Wallace Neal, is requesting to rezone 1.62 acres located at 1690 Cobb Parkway South from LI (Light Industrial) to CRC (Community Retail Commercial) in order to have compatible zoning that allows retail service uses.

The subject property is located along Cobb Parkway (US 41), and to the north and west of the subject property is Dobbins Air Reserve Base (ARB). The majority of the properties along the western side of Cobb Parkway are zoned CRC (Community Retail Commercial), except for the property that directly abuts the southern property line, which is zoned LI (Light Industrial).

The subject property has seven (7) tenant spaces, of which five (5) are currently occupied with retail and service tenants (barber, electronic repair, pawn and title, and sign shops). In addition, there is another building with approximately 8,500 sq. ft. retail building with a 7,800 sq. ft. warehouse attached to the rear. Recently, a retail tenant was denied a business license because the space had remained unoccupied for more than 6 months, and because the current LI zoning designation does not allow retail uses. Historically, most of the businesses that have leased spaces at the subject property are retail and service types. The proposed rezoning of the subject property to CRC would be more in line with the actual use of the property. As currently zoned, the subject property is limited to light industrial uses.

The subject property is entirely located within Dobbins ARB's Accident Potential Clear Zone (CZ), and coordination with Dobbins ARB is required when changes are proposed on properties within the Clear Zone. The proposed rezoning should have little impact on surrounding properties and the rezoning request is for less intense uses. However, since the building located on the southern part of the property is dilapidated and does not have a roof, Dobbins ARB Staff has stated that the applicant will have to file to the FAA to receive a decision on the construction plans of the subject property for the completion of the roof work and any other physical modifications that are proposed for the subject property.

In regards to City of Marietta zoning regulations under the CRC zoning designation, the following variances will be necessary to accommodate the property as currently developed:

- Variance to reduce front setback from 40 ft. to 7 ft. to accommodate the building in the southeastern corner of the property.
- Variance to reduce the rear yard setback from 35 ft. to 25 ft.
- Variance to allow the maximum impervious surface area to exceed 80%.
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Also, the property currently contains very few trees and is not in compliance with Section 712.08, Tree Protection and Landscaping. In order for the property to remain as-is (until the site is redeveloped according to Section 706.03), the following variances would be necessary.

- Variance to eliminate the required street trees and to parking lot trees.
- Variance to reduce the required 10 ft. landscape strip along Cobb Parkway.
- Variance to allow the current trees and landscaping conditions satisfy the requirements of Section 712.08.

Staff suggests that any variances that are approved should be for the current developed property only, and should be discontinued upon the redevelopment of the site, according to Section 706.03, Continuance of a nonconforming building or structure.

Also, Staff suggests that a stipulation may be considered to compel the applicant to file with the FAA (<http://www.faa.gov/forms/index.cfm/go/document.information/documentID/186273>) to complete the necessary roof work.

Prepared by: _____

Approved by: _____



DATA APPENDIX

CITY OF MARIETTA - WATER

Is a water line adjacent to the property?	Yes
If not, how far is the closest water line?	n/a
Size of the water line?	10-inch
Capacity of the water line?	Flow test required
Approximate water usage by proposed use?	Not provided

CITY OF MARIETTA - SEWER

Is a sewer line adjacent to the property?	Yes
If not, how far is the closest sewer line?	n/a
Size of the sewer line?	8-inch
Capacity of the sewer line?	Available
Estimated waste generated by proposed development?	A.D.F Peak Not provided
Treatment Plant Name?	Cobb County
Treatment Plant Capacity?	Cobb County
Future Plant Availability?	Cobb County

DATA APPENDIX CONTINUED

Drainage and Environmental Concerns

Does flood plain exist on the property?	NO
What percentage of the property is in a floodplain?	---
What is the drainage basin for the property?	Rottenwood Creek
Is there potential for the presence of wetlands as determined by the U.S. Environmental Protection Agency?	NO
If so, is the use compatible with the possible presence of wetlands?	---
Do stream bank buffers exist on the parcel?	NO
Are there other topographical concerns on the parcel?	NO
Are there storm water issues related to the application?	NO
Potential presence of endangered species in the area?	NO

Transportation

What is the road affected by the proposed change?	Cobb Parkway
What is the classification of the road?	Arterial
What is the traffic count for the road?	31,800 AADT – 2 way
Estimated number of cars generated by the proposed development? **	Existing Use – No change
Estimated number of trips generated by the proposed development? **	Existing Use – No change
Do sidewalks exist in the area?	NO
Transportation improvements in the area?	NO
If yes, what are they?	---



- If grading / land disturbance or building construction is proposed in the future, site plans will be required for construction. At that time, site plans must include, parking, driveways, streets, erosion-sedimentation-and pollution control plan, stormwater management (preventing concentrated flows from adjacent lots roads, and areas), stormwater quality (bioretention or other on each lot), and any other applicable improvements required by City Code and Georgia Stormwater Management Manual. Additional comments will be made at time of site plan submittal, if necessary. There can be no point discharge onto adjacent property which is not into a stream, defined drainageway, or storm sewer. Discharge will not be allowable at the property line, or into the street R.O.W. If easements are required for drainage through adjacent property, then the owner is to obtain.

EMERGENCY SERVICES

Nearest city or county fire station from the development?	Station #55 - 160 Franklin Road
Distance of the nearest station?	1.5 miles
Most likely station for 1 st response?	Station #55
Service burdens at the nearest city fire station (under, at, or above capacity)?	NA

MARIETTA POWER - ELECTRICAL

Does Marietta Power serve this site? Yes X No

If not, can this site be served? Yes No

What special conditions would be involved in serving this site?

Additional comments: